

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>MARCUS WALLACE,</b>	:	<b>CIVIL ACTION NO. 1:21-CV-406</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>PATRIOT FEDERAL CREDIT UNION,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 8th day of November, 2021, upon consideration of the report (Doc. 22) issued by Magistrate Judge Martin C. Carlson, which construes a May 17, 2021 letter<sup>1</sup> from *pro se* plaintiff Marcus Wallace as a concession that defendant Patriot Federal Credit Union is not the proper defendant in this case, (see id. at 7 (citing Doc. 21)), and recommends that the court thus grant defendant Patriot Federal Credit Union's motion (Doc. 17) to dismiss Wallace's complaint without prejudice to Wallace filing an amended complaint that names the proper defendant, (see Doc. 22 at 6-7), and further upon consideration of Wallace's objection (Doc. 23) to the report, wherein Wallace explains that he intended to sue two defendants, Patriot Federal Credit Union, and Farmers and Merchants Trust, and that his letter was intended as a response to the court's service order, (see Doc. 9), which Wallace

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<sup>1</sup> The letter stated: "This is a follow up to March 31, 2021 order. Whereas, It is believed that the proper Defendant is Daniel K. Walker (Main Bank CEO) Farmers and Merchants Trust Company 20 South Main street Chambersburg, Pennsylvania 17201, or (P.O. Box 6010 Chambersburg, Pa 17201-6010), 717-262-7500, 717.264.6110/888-264-6116." (Doc. 21).

noted lists a service address and intended recipient for Patriot Federal Credit Union but did not mention Farmers and Merchants Trust, (see Doc. 23 at 1-2), and the court noting that, while Wallace believes he has sued two defendants, his initial pleading (Doc. 1) references Patriot Federal Credit Union alone, and the court thus finding that the best and most appropriate course—given Wallace’s clarification, the apparently omitted defendant, and the confusion thus resulting from Wallace’s May 17, 2021 letter—is to construe Wallace’s objection (Doc. 23) as a motion for leave to amend his complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), see FED. R. CIV. P. 15(a)(2), and further finding that amendment is in the interest of justice under the circumstances, to allow Wallace an opportunity to clearly identify all intended defendants and his specific claims against each in a single, cogent pleading, it is hereby ORDERED that:

1. The court declines to adopt the report (Doc. 22) of Magistrate Judge Carlson.
2. Wallace’s objection (Doc. 23) is CONSTRUED as a motion for leave to amend and is GRANTED as so construed.
3. Wallace is GRANTED leave to file an amended complaint within 30 days of the date of this order. Any amended complaint shall clearly identify the defendants intended to be sued, shall be filed to the same docket number as the instant action, shall be entitled “First Amended Complaint,” and shall be complete in all respects. It shall be a new pleading that stands by itself as an adequate complaint under the Federal Rules of Civil Procedure.
4. In light of the leave to amend granted in paragraph 3, defendant Patriot Federal Credit Union’s motion (Doc. 17) to dismiss is DENIED as moot.

5. In the absence of a timely filed first amended complaint identifying an additional defendant, this matter shall proceed on Wallace's initial pleading (Doc. 1) and defendant Patriot Federal Credit Union's motion (Doc. 17) shall be reinstated and considered by the court.
6. The case is REMANDED to Magistrate Judge Carlson for all further pretrial proceedings including report and recommendation on dispositive motions.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner  
United States District Judge  
Middle District of Pennsylvania